

LUD 5466.4 - JEL/NDH (09807811)

Ala or Ser, wherein said peptide stimulates recognition and proliferation of CD4⁺ cells which are specific for complexes of said peptide and HLA-DR53 molecules.

Claim 83: The composition of claim 82, wherein said at least one other polypeptide is the peptide defined by SEQ ID NO: 8, 9 or 10.

Claim 84: A composition comprising a first polypeptide consisting of the amino acid sequence of SEQ ID NO: 7, and at least one other polypeptide, the amino acid sequence of which is set forth at SEQ ID NO: 4, 5 or 6.

REMARKS

Entry of the amendment is requested.

Claims 6-8, 11-13, 16-54 and 61-84 will be pending. Claims 74-84 replace claims 1-5, 9, 10, 14, 15 and 55-60. These are presented in accordance with 37 CFR § 1.121(h).

Applicants have maintained claims 6-8, 11-13 and 16-54, and 61-73 in order to preserve their right to petition from the restriction requirement. Two restriction requirements were made. According to the examiner, "proper" restriction of the instant claims was made in the second restriction requirement.

A first restriction requirement was made on March 16, 2000. The same claims were involved. An assistant examiner, and a supervisory examiner, signed this paper. Claims 1-5, 7-9, 10, 14, 15, 19-31, 36-38, 40, 55-60, 63 and 68-73 were presented in one group. Surely, these examiners felt the restriction was proper.

It then required 10 months for a second assistant examiner and a second supervisory examiner to conclude that the first restriction requirement was not proper. Nearly a year of patent term has been lost because a new team of examiners chose to disagree with a prior team of examiners, following an election. The second restriction requirement did not even contain an explanation for the change, or the delay.

The examiner is invited to avoid the need for a petition and to reconsider the change in position on the restriction, and to augment the inadequate explanation for same.

Point 4 of the action will be dealt with in the future.

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The specification has been amended, thereby addressing point 5; however, the request regarding page 26 will not be carried out. The test which proceeds the table explains the reiteration fully.

Point 6 is not understood.

In points 7 and 8, claims 1, 3, 9 and 57-59 have been rejected under 35 USC § 112, first paragraph as allegedly not satisfying the written description requirement. Claim 2 was not so rejected.

Claim 74 combines claims 1 and 2, and thus should clearly be deemed free of this rejection. Claim 75 correspond to prior claim 3, depends from claim 74, and is thus free of the rejection. Claims 76 and 77 correspond to prior claims 4 and 5, which were not so rejected, and thus are free of the rejection. Claim 78 correspond to old claim 9, depends from claim 74, and is thus free of the rejection. Claim 79 correspond to prior claim 10, and is free of the rejection. Claims 80 and 81 correspond to old claims 14 and 15. Claims 55-58 are canceled, with no replacement claims. Claim 59 is replaced by claim 82. The claim requires SEQ ID NO: 7, as well as a peptide which must be found in a given sequence, and which correspond to the peptide defined by claim 74. Claim 84 correspond to claim 60, not rejected under 35 USC § 112, first paragraph.

The spelling changes obviates the rejections at point 10.

Only claims 55-58 were rejected under 35 USC § 103. These claims have been canceled and will be pursued in a divisional application.

All rejections have been addressed, and overcome.

As the amendment rests on a combination of a base claim and a claim which had been rejected solely due to the use of "polypeptide"/"peptide" and lack of uniformity therein, and a spelling error, any further rejections will be treated as non-final rejections.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By 

Norman D. Hanson
Reg. No. 30,946

666 Fifth Avenue
New York, New York 10103
(212) 318-3000